

91ST CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 91-517

**LEGISLATIVE COUNSEL  
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FAIR CREDIT REPORTING

REPORT  
OF THE  
COMMITTEE ON  
BANKING AND CURRENCY  
UNITED STATES SENATE  
TO ACCOMPANY  
S. 823



NOVEMBER 5, 1969.—Ordered to be printed

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(III)

## Calendar No. 511

91ST CONGRESS }  
*1st Session*

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{ REPORT  
No. 91-517

### FAIR CREDIT REPORTING

NOVEMBER 5, 1969.—Ordered to be printed

Mr. PROXMIRE, from the Committee on Banking and Currency,  
submitted the following

### REPORT

[To accompany S. 823]

The Committee on Banking and Currency, to which was referred the bill (S. 823) to enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

#### Purpose of the Legislation

The purpose of the fair credit reporting bill is to prevent consumers from being unjustly damaged because of inaccurate or arbitrary information in a credit report. The bill also seeks to prevent an undue invasion of the individual's right of privacy in the collection and dissemination of credit information.

Whenever an individual is rejected for credit, insurance or employment because of an adverse credit report, the individual is given the right to be told the name of the agency making the report.

Credit reporting agencies would be required to inform the consumer of all the information in his credit file. Following disclosure, the consumer would be given an opportunity to correct inaccurate or misleading information in his credit file. In addition, the bill requires that the information in a person's file be kept confidential and used only for legitimate business transactions. Under most circumstances, adverse information older than 7 years could not be reported. The legislation also establishes the right of a consumer to be informed of investigations into his personal life.

The bill covers reports on consumers when used for obtaining credit, insurance or employment. However, the bill does not cover business credit reports or business insurance reports.

The bill recognizes the vital role played by credit reporting agencies in our economy. Those who extend credit or insurance or who offer employment have a right to the facts they need to make sound decisions. Likewise, the consumer has a right to know when he is being turned down for credit, insurance, or employment because of adverse information in a credit report and to correct any erroneous information in his credit file. The procedures established in the bill assure the free flow of credit information while at the same time they give the consumer access to the information in his credit file so that he is not unjustly damaged by an erroneous credit report.

### **History of the Legislation**

The Fair Credit Reporting bill was introduced by Senator William Proxmire on January 31, 1969. Hearings before the Subcommittee on Financial Institutions were held from May 19 through May 23. The subcommittee met in executive session on October 9 and recommended the bill with amendments to the full committee. The full committee met on October 22 and ordered the bill reported with additional amendments.

### **Growth of the Credit Reporting Industry**

One of the phenomenal growth records since the end of World War II has been the growth of the consumer credit industry. At the end of 1945 the American consumer owed less than \$6 billion, whereas he now owes over \$116 billion. With the growth of consumer credit, a vast credit reporting industry has developed to supply credit information. The growth of computer technology has facilitated the storage and interchange of information on consumers and opens the possibility of a nationwide data bank covering every citizen.

As an example of the size of the industry, the Associated Credit Bureaus, a major trade association, has over 2,200 individual members serving 400,000 creditors in 36,000 communities. These credit bureaus maintain credit files on more than 110 million individuals and in 1967 they issued over 97 million credit reports. Credit bureaus typically supply information on a person's financial status, bill paying record and items of public record such as arrests, suits, judgments, and the like. The information is generally furnished to creditors for extending credit although it may also be used for employment purposes.

One of the fastest growing credit bureaus already has 27 million files on computer tape. Moreover, the firm is adding names at the rate of 7 million a year. If this growth rate is maintained, the firm will have data on every American family in their computer file within a few years. Last year the firm made 7 million reports to creditors.

Another firm prominent in the insurance reporting field has 1,800 offices in the United States and Canada. This firm has dossiers on 45 million individuals and makes 35 million reports a year to their 40,000 customers. Insurance reporting firms investigate people who apply for insurance, generally through interviews with neighbors and coworkers. Their files include information on a person's character, habits, and morals as well as his financial status. Once the information is in the file, it can be used again for future insurance or employment reports.

A fourth problem is that the information in a person's credit file is not always kept strictly confidential. As an example, a reporter for a major TV network was able to obtain 10 out of 20 reports requested at random from 20 credit bureaus by using the name of a completely fictitious company under the guise of offering the individuals credit.

A fifth problem is that investigative type credit reports sometimes gather highly sensitive and personal information about a person's private life, such as racial or ethnic descent, domestic trouble, housekeeping habits, and conditions of yard. Moreover, because of its very nature much of the information on a person's general character, habits and morals is based on someone's subjective opinion rather than objective fact. Some of the information collected on investigative reports may be only marginally related to the purpose of granting credit or insurance and may tend to invade the individual's right to reasonable privacy.

A sixth problem deals with the handling of public record information. Most credit bureaus systematically compile public record information such as records of suits, tax liens, arrests, indictments, convictions, bankruptcies, judgments and the like. This information is then included on a person's report when he applies for credit, or in some cases when he applies for employment. Unfortunately, the information cannot always be kept up to date either because it is costly or because the correct information is simply not available. Thus, it is possible for a credit bureau to report a record of a suit or arrest without indicating that the suit was dismissed or the arrest charges dropped. Because public record information is reported to employers as well as creditors, a consumer's future employment career could be jeopardized because of an incomplete credit report.

A seventh problem is concerned with the reporting of information about a person's earlier credit difficulties. Creditors obviously have a right to know if a person has had trouble in paying his bills. At the same time it can be unfair to burden a consumer for life with a bad credit record if he has improved his performance. The Associated Credit Bureaus has recognized this problem and had proposed voluntary guidelines to its members to the effect that adverse information not be reported if it is older than 7 years or 14 years in the case of bankruptcies. Nonetheless, these guidelines are not necessarily followed by reporting agencies who are not members of the ACB.

### Section-By-Section Summary

*Section 601.—Short Title.*—This section indicates that the act may be cited as the "Fair Credit Reporting Act."

*Section 602.—Statement of Purpose.*—This section indicates a need to establish safeguards for the reporting of information on consumers so as to assure its confidentiality, accuracy, relevancy, and proper utilization.

*Section 603.—Definitions and Rules of Construction.*—A "consumer report" is defined under subsection (d) as a report on an individual when the information has been collected or is to be used for credit, insurance, or employment purposes. The term does not include information reported by a creditor or other person when the information is confined to the creditor's own transactions or experience with the consumer. However, if the creditor obtains information on a consumer

Until this year, there has been virtually no State legislation regulating credit reporting other than a 1916 Oklahoma statute with limited scope. In 1969, credit reporting legislation was introduced in 27 states and two States—Massachusetts and New Mexico—passed a statute. Because of the nationwide character of the credit reporting business, firms which operate on a nationwide scale expressed a preference for Federal regulation rather than State legislation during the hearings on S. 823. Moreover, New York State officials who testified expressed a need for Federal legislation to supplement any future State legislation which may be enacted.

### **Problems of the Credit Reporting Industry**

Given the rapid expansion of the credit reporting industry and the almost complete lack of regulation, it is inevitable that some problems will arise. For the most part, the credit reporting system has served the consumer well and the abuses have not been widespread. Nonetheless, congressional hearings have shown that some abuses do exist. Moreover, industry leaders have agreed that there have been some abuses and many have already taken voluntary steps to correct them. The leaders of the credit reporting industry are likewise agreed upon the need for Federal legislation to insure that guidelines apply uniformly and fairly to all segments of the industry.

One problem which the hearings on S. 823 identified is the inability at times of the consumer to know he is being damaged by an adverse credit report. Standard agreements between credit reporting agencies and the users of their reports prohibit the user from disclosing the contents of the report to the consumer. In some cases, the user is even precluded from mentioning the name of the credit reporting agency. Unless a person knows he is being rejected for credit or insurance or employment because of a credit report, he has no opportunity to be confronted with the charges against him and tell his side of the story.

A second problem is that even if the person knows the name of the credit reporting agency, he is not always given access to the information in his file. Insurance reporting firms generally do not admit to making a report on an individual and ordinarily will not reveal the contents of their file to him. Credit bureaus sometimes build roadblocks in the path of the consumer. For example, the credit bureau industry trade publication, in frankly discussing this problem, states that some bureaus discourage consumer interviews "by placing a nuisance charge on the investigation, or merely placing the date of the interview as much as 2 weeks away."

A third problem is that even when individuals gain access to the information in their credit file, they sometimes have difficulty in correcting inaccurate information. Some credit reporting agencies proceed on the assumption that an individual is guilty until proven innocent and refuse to delete information which is no longer verifiable unless the consumer can prove otherwise. In other cases, the consumer may have difficulty in getting his version of a legitimate dispute recorded in his credit file. For example, a consumer may withhold payment from a creditor because the merchandise was defective. His credit record may simply show that he has refused to pay without entering his reasons.

from third parties and reports it to another person, such communication would be deemed a consumer report regardless of whether a fee was charged for the report.

The term "consumer report" also does not include communications between a credit card company and a retail merchant when the communication authorizes or approves a specific extension of credit directly or indirectly by the credit card company. The term "directly or indirectly" is used to cover the situation where the legal arrangements on which the credit card plan is based call for the merchant to extend the credit and assign the resulting evidence of indebtedness to the credit card company. In such instance, the credit card company is indirectly extending the credit. The credit card company would be required, as a creditor, to comply with the disclosure provisions of section 615.

Finally, the term "consumer report" does not cover communications between a finance company or other creditor and a retail merchant concerning the approval of a specific extension of credit directly or indirectly by the finance company, provided the merchant identifies the finance company and the finance company complies with the disclosure provisions of section 615. The word "indirectly" again refers to the situation where the retail merchant initially extends credit but then assigns the resulting evidence of indebtedness to the finance company or other creditor who approved the transaction.

The purpose of these exclusions is to assure that creditors who are acting as creditors are not classified as a consumer reporting agency, provided they comply with the disclosure obligations required of creditors under section 615.

Under subsection (e), the term "investigative consumer report" is further defined as one in which personal-type information on a consumer's character, reputation, personal characteristics, or mode of living is obtained through interviews with neighbors, associates, and the like.

Under subsection (f), the term "consumer reporting agency" is defined as anyone who regularly furnishes consumer reports whether for fees or otherwise. If a creditor regularly compiles information on consumers from third parties and furnishes that information to other persons either for fees or otherwise, the creditor becomes a consumer reporting agency and is subject to the applicable provisions of the act.

*Section 604.—Permissible Purposes of Reports.*—This section limits the furnishing of consumer reports to five purposes: (1) credit; (2) insurance; (3) employment; (4) obtaining a governmental license or other benefit; or (5) other legitimate business need involving a business transaction with the consumer. Any broader use would require either a court order or the consumer's written permission.

*Section 605.—Obsolete Information.*—This section prohibits the reporting of adverse information older than 7 years, or 14 years in the case of information on bankruptcies, except in connection with life insurance contracts in excess of \$25,000, extensions of credit in excess of \$50,000, or employment applications for jobs with an annual salary in excess of \$20,000.

*Section 606.—Disclosure of Investigative Reports.*—This section requires those who order investigative reports to disclose to the consumer that an investigative report may be made, that the report may in-



volve information on his character, general reputation, personal characteristics and mode of living as applicable, and that he has the right to request a complete and accurate disclosure of the nature and scope of the investigation. This provision would not apply if the report is for employment purposes and the consumer has not specifically applied for the employment.

*Section 607.—Compliance Procedures.*—This section requires reporting agencies to maintain procedures to preserve the confidentiality and proper use of information. Users must certify the purposes for which information will be used and agree not to use the information for other purposes. A reporting agency must make a reasonable effort to check out new users and refrain from making reports if it has reasonable grounds for believing the report will not be used for an authorized purpose.

*Section 608.—Disclosures to Governmental agencies.*—The disclosure of information to governmental agencies is limited to identifying type information such as name, address and place of employment unless the governmental agency has obtained a court order or is a bona fide creditor, insurer, employer, or licensor.

*Section 609.—Disclosures to Consumers.* This section requires reporting agencies to disclose, at the request of a consumer, the nature and substance of all information in the consumer's file, the sources of the information unless it is an investigative report, and the persons who have received reports on the consumer during the past 6 months for credit or insurance purposes and the past 2 years for employment purposes.

*Section 610.—Conditions of Disclosure to Consumers.*—This section requires disclosures to be made during normal business hours and on reasonable notice. The disclosure may be made at the credit reporting agency or over the phone if the consumer so requests in writing and furnishes proper identification. Reporting agencies must provide trained personnel to explain the information in a consumer's file. The consumer has the right to have one person accompany him. Reporting agencies, their sources and the users of information are given immunity from libel or other suits as a result of information in their credit file disclosed to consumers pursuant to section 609, 610 and 615 unless the information was furnished with malice or willful intent to injure the consumer. The immunity provisions under this section do not extend to information acquired by a consumer through other means.

*Section 611.—Procedure in Case of Disputed Accuracy.*—If the completeness or accuracy of an item of information is challenged by a consumer, the credit reporting agency must reinvestigate and record its current status. Inaccurate or unverifiable information must be deleted. The consumer has a right to file a brief explanatory statement on disputed items which must accompany future reports. The consumer may also request that previous recipients be notified of any corrections.

*Section 612.—Charges for Certain Disclosures.*—Disclosures shall be free of charge to consumers who are rejected for credit, insurance, or employment or who are charged higher rates for credit or insurance and who have been so notified by the creditor, insurer, or employer.

Similarly, disclosure charges cannot be made to persons who have received a dunning letter from a collection affiliate of the reporting agency. In all other cases, the reporting agency may establish a reasonable disclosure charge.

The cost of sending corrected information to the prior recipients of a report shall be at the expense of the reporting agency when information is deleted because it is inaccurate or unverifiable. When the item is in dispute, the reporting agency may charge the consumer for notifying prior recipients.

*Section 613.—Public Record Information for Employment Purposes.*—Reporting agencies cannot report adverse items of public record information for employment purposes unless they maintain strict procedures to keep the information up to date. If this cannot be done, the consumer must be notified that the adverse information is being reported and to whom at the time the report is made.

*Section 614.—Restrictions on Investigative Consumer Reports.*—Adverse information developed on investigative reports which is more than 3 months old cannot be reported again unless it is reverified. Those who make investigative reports must follow procedures to assure maximum possible accuracy.

*Section 615.—Requirements on Users of Consumer Reports.*—Those who reject a consumer for credit, insurance or employment or who charge a higher rate for credit or insurance wholly or partly because of a consumer report must, upon written request, so advise the consumer and supply the name and address of the reporting agency. If a consumer is turned down for credit or charged a higher rate based on information other than a consumer report, the nature and substance of this information must also be disclosed on written request. The consumer's right to make such a request must be disclosed if he is turned down for credit, employment, or insurance or charged a higher rate for credit or insurance. Such disclosure must be made at the time such adverse action is communicated to the consumer. However, the user has no liability under this section until the adverse action has actually been communicated to the consumer.

*Section 616.—Civil Liability for Willful Non-Compliance.*—Consumers can bring civil actions to enforce compliance. If a willful violation can be shown, the consumer can collect actual damages, punitive damages of up to \$1,000 and attorney fees.

*Section 617.—Civil Liability for Grossly Negligent Non-Compliance.*—If the consumer can show a grossly negligent violation, he can collect actual damages plus attorney fees.

*Section 618.—Jurisdiction of Courts.*—Civil actions may be brought in Federal or State courts within 2 years of the violation.

*Section 619.—Obtaining Information Under False Pretenses.*—Any person who knowingly and willfully obtains a consumer report under false pretenses can be fined up to \$5,000 and imprisoned up to 1 year, or both.

*Section 620.—Administrative Enforcement.*—Compliance would be further enforced by the Federal Trade Commission with respect to consumer reporting agencies and users of reports who are not regulated by another Federal agency. The FTC can use the cease and desist authorities and other procedural, investigative and enforcement powers which it has under the FTC Act to secure compliance.

Compliance on the part of financial institutions or common carriers regulated by another Federal agency would be enforced by that agency, using its existing enforcement authorities to bring about compliance.

*Section 621.—Relation to State Laws.*— State laws which are inconsistent with the Federal law are preempted to the extent of the inconsistency. However, no State law would be preempted unless compliance would involve a violation of Federal law.

*Effective Date.* The act becomes effective in 6 months following its enactment.

#### Cordon Rule

In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

